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10/750,107	12/31/2003	Kurt Santayana	EZP-100US	9604

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EXAMINER

VANTERPOOL, LESTER L

ART UNIT PAPER NUMBER

3727

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,107

Applicant(s)

SANTAYANA, KURT

Examiner

Lester L. Vanterpool

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 15, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment filed on June 15, 2006.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 8 and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 8 recites: "the eyeglass holder (reference character #60) (See Figure 4C) is a grasshopper clip (reference character #80) (See Figure 4E) attached to the front panel."

Claim 9 recites: "the grasshopper clip (reference character #80) (See Figure 4E) comprises a locking clasp, to secure eyeglasses into place and a release button to allow the release of the eyeglasses from the locking clasp."

The subject matter of claims 8 and 9 is not described in the specification at page 7, lines 7 – 18. The specification does not describe the eyeglass holder having a grasshopper clip to attach to the front panel. In addition, the specification does not describe the grasshopper clip comprising the locking clasp to secure eyeglasses into place and a release button to allow the release of the eyeglasses from the locking clasp.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 10, 19 – 21 are rejected under 35 U.S.C. 102(b) as being anticipated by DeVito (U.S. Patent Number 5960572). DeVito discloses the rear wall (29); the mounting apparatus (28) affixed to the rear panel (29) to attach the device holder (10) to the vehicle (26); the front panel (68); the retaining device (66) attached to the front panel (68); the base panel; the side plates connected to the front panel (68) defining an

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opening adapted to removably receive and retain the electronic toll pass device (18).

See Figures 1, 2 & 4.

Regarding claim 2, DeVito further discloses the mounting apparatus is at least one suction cup (28). See Figure 4.

Regarding claim 10, DeVito further discloses the retaining device (66) is a paper holder (column 5, line 36 – 39). See Figure 2.

Regarding claim 19, DeVito further discloses the opening (14) is sized to retain the electronic toll pass device (18) by frictional fit (54) (column 5, line 18 – 23). See Figure 5.

Regarding claim 20, DeVito further discloses the protruding (58) structure disposed on at least one of the front, side and rear panels (column 5, line 18 – 30). See Figure 5.

Regarding claim 21, DeVito further discloses the rear panel (29) (See Figure 2); the mounting apparatus (28) (See Figure 2) comprising at least one suction cup (See Column 4, lines 45 – 46) affixed to the rear panel (29) to attach the device holder to the vehicle (24) (See Figure 2); the front panel (68); the retaining device (66) attached to the front panel (68) (See Figure 2), the retaining device (66) selected from the group

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consisting of the grasshopper clip (66) (See Figure 2); the base panel (See Figure 2); the side plates (See Figure 4) connected to the front panel (68), base plate (See Figure 2) and rear panel (29) defining the opening (14) (See Figures 2 – 4) adapted to removably receive and retain the electronic toll pass device (See Column 4, lines 36 – 37) (See Figures 2 – 6).

5. Claim 22 is rejected under 35 U.S.C. 102(e) as being anticipated by Mahoney et al., (U.S. Patent Number 6957755). Mahoney et al., discloses the first surface (14), the middle surface (14.1), the second surface (12), the side panels connecting the first (17), middle (14.1), and second (12) surfaces wherein the first (14) and middle (14.1) surfaces are spaced apart to define an opening adapted to removably receive and retain the electronic toll pass (20), and wherein the second (12) and middle (14.1) surfaces define the retaining device (11) along substantially the entire length of the second (12) and middle surface (14.1) (See Figures 1 & 3); and the mounting apparatus (24 & 60) attach the device holder (100) to the vehicle disposed on the first, middle (14.1) or second (12) surface. See Figures 1 – 3, 5 – 13.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) in view of Pitts (U.S. Patent Number 1739801). DeVito discloses the invention substantially as claimed.

However DeVito does not disclose at least one aperture to attach the mounting apparatus to the device holder.

Pitts teaches the rear panel (2) further comprises at least one aperture (10) to attach the mounting apparatus (7) to the device holder (See Figures 1 & 2) for the purpose of allow the apparatus to be portably mounted.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one aperture to attach the mounting apparatus to the device holder as taught by Pitts with the device holder of DeVito in order to enhance the ease of placing and removing the device holder.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) as applied to claim 1 above, and further in view of

Treske (U.S. Patent Number 5592767). DeVito discloses the invention substantially as claimed.

However, DeVito does not disclose the retaining device is a business or credit card holder.

Treske teaches the retaining device (10) is a business or credit card (12) holder (See Figure 1) for the purpose of storing personal items.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the retaining device the business or credit card holder as taught by Treske with the device holder of DeVito in order to increase the multi-functional capabilities and allow the user to transport personal items.

9. Claims 5 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) in view of Treske (U.S. Patent Number 5592767) as applied to claim 4 above, and further in view of Elnekaveh (U.S. Patent Number 6823910). DeVito and Treske disclose the invention substantially as claimed.

However, DeVito and Treske do not disclose the cardholder comprising at least two tabs to removably receive and retain business or credit cards.

Elnekaveh teaches the cardholder comprising at least two tabs (13 & 14) to removably receive and retain business or credit cards (column 3, line 33 – 36 & column 4, line 57 – 63) (See Figure 1) for the purpose of securing a plurality of cards.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cardholder comprising at least two tabs to removably

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receive and retain business or credit cards as taught by Elnekayeh with the device holder of DeVito in order to adequately enhance the securing and retaining business and or credits.

Regarding claim 6, Elnekaveh further discloses at least two tabs (13 & 14) are mounted to corners of the front panel (11) (See Figures 1, 2 & 7) for the purpose of retaining the plurality of card and allowing the user finger space to adequately remove the cards one by one.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least two tabs mounted to corners of the front panel as taught by Elnekayeh with the device holder of DeVito in order to adequately enhance the securing and retaining business and or credits and allow the user to remove the cards one at a time.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) as applied to claim 1 above, and further in view of Lee (U.S. Patent Number 5046696). DeVito discloses the invention substantially as claimed.

However, DeVito does not disclose the retaining device of the front panel is an eyeglass holder.

Lee teaches the retaining device of the front panel (10) is an eyeglass holder (See Figure 4) for the purpose of storing eyewear.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the retaining device of the front panel is an eyeglass holder as taught by Lee with the device holder of DeVito in order to enhance multi-functional capabilities.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) as applied to claim 1 above, and further in view of Bolanos (U.S. Patent Number 6427836). DeVito discloses the invention substantially as claimed.

However, DeVito does not disclose the retaining device is a picture holder. Bolanos teaches the retaining device (26) is a picture holder (column 3, line 31) (See Figure 1) for the purpose of transporting and storing personal identification.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the retaining device is a picture holder as taught by Bolanos with the device holder of DeVito in order to allow the user to transport personal portrait.

12. Claims 12 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) in view of Bolanos (U.S. Patent Number 6427836) as applied to claim 11 above, and further in view of Arraut (U.S. Patent Number 6886283). DeVito and Bolanos disclose the invention substantially as claimed.

However, DeVito and Bolanos do not disclose the picture holder further comprises a picture frame window secured to the front panel with sufficient space to allow a photograph to be inserted and stored between the picture frame window and the front panel.

Arraut teaches the picture holder further comprises the picture frame window (14) secure to the front panel (19) with sufficient space to allow a photograph to be inserted and stored between the picture frame window (14) and the front panel (19) (column 3, line 4 – 9) (See Figure 2) for the purpose of storing the personal information.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the picture holder further comprises a picture frame window secured to the front panel with sufficient space to allow a photograph to be inserted and stored between the picture frame window and the front panel as taught by Arraut with the device holder of DeVito in order to adequately secure the portrait during transportation.

Regarding claim 13, Bolanos further discloses the front panel (24) defines at least one groove (22) adapted to removably receive and retain the picture frame window (column 3, line 44 – 49) for the purpose of allowing the user the option to remove and change cards.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the front panel defines at least one groove adapted to removably receive and retain the picture frame window as taught by Bolanos with the

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device holder of DeVito in order to provide the user with an easy and frictionless card retrievals.

Regarding claim 14, Arraut further discloses the picture frame window (14) is constructed of a plastic material (column 3, line 4 – 9 & column 3, line 26 – 28) for the purpose of allowing the card to be visible and readable without removing the card from the holder.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the picture frame window is constructed of a plastic material as taught by Arraut with the device holder of DeVito in order to communicate the information from the personal card without removing the card from the secure storage location.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) as applied to claim 1 above, and further in view of Mandel et al., (U.S. Patent Number 6053310). DeVito discloses the invention substantially as claimed.

However, DeVito does not disclose the retaining device is a change holder adapted to removably receive and retain at least one coin.

Mandel et al., teaches the retaining device (22) adapted to removably receive and retain at least one coin (56) (column 2, line 52 – 54) for the purpose of storing coins. See Figure 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the retaining device is a change holder adapted to removably receive and retain at least one coin as taught by Mandel et al., with the device holder of DeVito in order to store coins in the users vehicle in one convenient location.

14. Claims 16 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) as applied to claim 1 above, and further in view of House (U.S. Patent Number 5881904). DeVito discloses the invention substantially as claimed.

However, DeVito does not disclose at least the front, rear, side, and base panels are constructed of a material substantially resistant to UV degradation.

House teaches the front, the rear, the sides and the base panels of (6) are constructed of a material substantially resistant to UV degradation (column 4, line 30 – 35) for the purpose of increasing durability (See Figures 1 – 3) for the purpose of providing product durability.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least the front, rear, side, and base panels are constructed of a material substantially resistant to UV degradation as taught by House with the device holder of DeVito in order to increase product reliability and durability.

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Regarding claim 18, House further discloses at least the front, rear, the side and the base panels of (6) are of a unitary design, constructed by injection molding, or are cast from a common fold (column 30 – 35) for the purpose of manufacturing cost.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least the front, rear, the side and the base panels of (6) are of a unitary design, constructed by injection molding, or are cast from a common fold as taught by House with the device holder of DeVito in order to compensate expensive manufacturing cost.

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito (U.S. Patent Number 5960572) in view of House (U.S. Patent Number 5881904) as applied to claim 16 above, and further in view of Mahoney et al., (U.S. Patent Number 6957755). DeVito and House substantially disclose the invention as claimed.

However, DeVito and House do not disclose the material is plastic.

Mahoney et al., teaches the material is plastic (column 2, line 45 & 65) for the purpose of flexibility.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the material is plastic as taught by Mahoney et al., with the device holder of DeVito in order to reduce manufacturing cost.

Response to Arguments

16. Applicant's arguments filed June 15, 2006 have been fully considered but they are not persuasive.

Regarding claim 1, DeVito (U.S. Patent Number 5960572) expressly or inherently under 35 U.S.C. §102 discloses the front panel and the rear panel (See Figures 2 & 4).

DeVito, further discloses the mounting apparatus (28) affixed to the rear panel to attach the device holder (12) to the vehicle (24). The mounting apparatus (28) includes a base portion (32) (See Figure 4), which is part of the mounting apparatus (28) (See Column 4, lines 57 – 60). Furthermore, mounting apparatus (28) with the base portion (32) is affixed to the rear panel (29) to attach the device holder (12) to the vehicle (24) (See Figure 6).

Moreover, Pitts (U.S. Patent Number 1739801) prior art on record also discloses the mounting apparatus (7) affixed to the rear panel (2) to attach the device holder to the vehicle (See Figure 1).

Regarding claim 22, Mahoney et al., (U.S. Patent Number 6957755) expressly or inherently under 35 U.S.C. 102 discloses the first surface (14); the middle surface (14.1) and the second surface (12), wherein side panels (See Figures 2 & 3) connect the first (14), middle (14.1) and second (12) surfaces wherein the first (14) and middle (14.1) surfaces are spaced apart to define the opening (See Figure 2) adapted to removably

receive and retain the electronic toll pass device (20) (See Figure 2), and wherein the second (12) and middle (14.1) surfaces defines the retaining device (11) along substantially the entire length of the second (12) and middle (14.1) surfaces (See Figure 3); and the mounting apparatus (60) to attach the device holder (100) to the vehicle (32) disposed on the second (12) surface (See Figure 7).

Conclusion

17. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing

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out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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LLV
August 30, 2006


JES F. PASCUA
PRIMARY EXAMINER